

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 5-33 and 37-42 are pending in this application, of which Claims 5-33 are withdrawn from consideration. Claims 37-42 are amended, support for which is found in the application as originally filed. Therefore, it is respectfully submitted no new matter is added.

In the outstanding Office Action, Claims 37-38 were rejected under 35 U.S.C. §101; and Claims 37-42 were rejected under 35 U.S.C. §103(a) as being unpatentable over EP 1069567 (Asano) in view of U.S. 2003/0145183 (Muehring).

The Office Action states Claim 37 is not statutory under 35 U.S.C. §101 because Claim 37 merely recites post-solution activity. In particular, the Office Action states that “using a data processing device,” as recited in Claim 37, is representative of post-solution activity. Applicant respectfully disagrees. The recitation of components of a machine/apparatus in *Claim 37 is directed at activity which is an essential part of the claimed solution*. Moreover, *Claim 37 is directed at a transformation of a recording medium*. Claim 37 recites:

A method of a media verification system for identifying recording media, comprising:  
generating a plurality of different signature data elements from a secret key data element and a message data element using a data processing device of the media verification system;  
generating a plurality of different identification data elements using the data processing device, each of the plurality of different identification data elements including a generated signature data element and the message data element used in the generating of the generated signature data elements, and storing the plurality of different identification data elements in an electronic memory of the media verification system;  
assigning one of the plurality of generated identification data elements to each of a plurality of different recording media;  
*recording one of the plurality of generated identification data elements to an assigned recording media using a media writing device of the media verification system;*

***generating a verification data element from the generated signature data element of the identification data element recorded on the assigned recording media using a public key;***

***comparing the verification data element to the message data element of the identification data element recorded on the assigned recording media*** using the data processing device to determine whether the verification data element and the message data element of the identification data element recorded on the assigned recording media are the same, and verifying the identification data element based upon a determination that the verification data element is the same as the message data element of the identification data recorded on the assigned recording media; and

***writing an encrypted content to the assigned recording media using a media recording device based upon a determination that the assigned recording media is verified in the comparing***, wherein the media recording device is configured to inhibit writing the encrypted content to a recording media having an unverified identification data element or no identification data element recorded thereon.

[Emphasis added].

As noted above, Claim 37 recites recording a generated identification data element onto an assigned recording media using a media writing device of the media verification system. It is unclear how Claim 37 merely recites post-solution activity (as asserted in the Office Action) because the claimed steps of recording the identification data element onto the recording media is a necessary element of the claimed solution. Specifically, the steps of generating verification data elements, comparing the verification data element to the message data element of the identification data recorded on the assigned recording media, and writing an encrypted content to the assigned recording media each rely on the step of recording the identification data element onto the recording media using a media writing device. In other words, ***there is no solution without the step of recording the identification data element onto the recording media with a media writing device.***

Therefore, the recitation in Claim 37 ***cannot*** be representative of merely post-solution activity, and it is respectfully submitted the rejection under 35 U.S.C. §101 should be withdrawn.

Moreover, it is entirely unclear how writing or recording data elements onto a recording media, as recited in Claim 37, do not constitute a transformation of the recording

media. If the rejection under 35 U.S.C. §101 is to stand, then it is respectfully requested that a clear indication be made in the record of how writing or recording data elements onto a recording media *is not a transformation of the recording media* under *In re Bilski*.

Otherwise, it is respectfully submitted the rejection under 35 U.S.C. §101 should be withdrawn.

As presented above, Amended Claim 37 recites, *inter alia*:

generating a plurality of different identification data elements using the data processing device, ***each of the plurality of different identification data elements including a generated signature data element and the message data element used in the generating of the generated signature data elements***, and storing the plurality of different identification data elements in an electronic memory of the media verification system;  
assigning one of the plurality of generated identification data elements to each of a plurality of different recording media;  
recording one of the plurality of generated identification data elements to an assigned recording media using a media writing device of the media verification system;  
[Emphasis added]

As emphasized above in amended Claim 37, a plurality of different identification data elements are generated, where each identification data element includes both (1) a different generated signature data element (of the plurality of generated signature data elements) and (2) the message data element used in the generation of the different signature data elements. In particular, according to Claim 37, the same message data element is commonly included with different signature data elements to form an identification data for each of a plurality of recording media. It is respectfully submitted Asano fails to disclose or suggest this feature.

Asano describes a process which starts out with a random pattern being recorded onto an optical disk.<sup>1</sup> The random pattern is read from the optical disk in an analog manner and is converted into a digital random pattern, which is then supplied to an authentication data creation part as medium identification information 'r', which is unique to the optical disk.<sup>2</sup>

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<sup>1</sup> Asano, paragraph [0021] and Fig. 1.

<sup>2</sup> Asano, paragraphs [0033].

Then, a digital signature is affixed to the medium identification information 'r' to be used as authentication data.<sup>3</sup>

As shown in Fig. 3 of Asano, additional information 'u' is added to the medium identification information 'r' to create data 'm'. The additional information 'u' includes information such as manufacturing date of the medium and a manufacturer ID.<sup>4</sup> A signature data 's' is then created with respect to the data 'm' by using a secret key corresponding to a public key.<sup>5</sup>

Although not particularly identified in the Office Action, Applicant assumes the Office Action identifies the data 'm' in Asano as equivalent to the message data element recited in Claim 37. However, in Asano, since the data 'm' includes additional information 'u' and medium identification information 'r', *both of which are variables depending on properties of the particular optical disk in question, data 'm' cannot be the same amongst a plurality of recording media*. Therefore, it is respectfully submitted that the data 'm' does not satisfy Claim 37, because Claim 37 recites that *the* message data element (as opposed to a different or unique message data element) is included with each of the *different* identification data elements.

None of the other cited references remedy this deficiency in Asano.

Although directed at a different statutory class and/or varying in scope, it is respectfully submitted that Claims 39 and 41 recite features which are allowable over cited references for substantially the same reasons noted above regarding Claim 37. Therefore, it is respectfully submitted that Claims 37, 39 and 41 (and any claim depending therefrom) is allowable over the cited references, and it is respectfully requested that the rejection in view of Asano be withdrawn.

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<sup>3</sup> Asano, paragraphs [0034].

<sup>4</sup> Asano, paragraphs [0037], step 1 of Fig. 3.

<sup>5</sup> Asano, paragraphs [0034] and [0037], step 2 of Fig. 3.

Consequently, in view of the present amendment and in light of the above comments, it is respectfully submitted this application is in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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